

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GREGORY HANDLOSER and CERAFIN
CASTILLO,

Plaintiffs,

v.

HCL TECHNOLOGIES LTD. and HCL
AMERICA, INC.,

Defendants.

Case No. 19-CV-01242-LHK

**ORDER DENYING ADMINISTRATIVE
MOTIONS TO FILE UNDER SEAL
WITHOUT PREJUDICE**

Re: Dkt. Nos. 161, 177, 184

Before the Court are three administrative motions to file under seal. ECF Nos. 161, 177, 184. Plaintiffs Gregory Handloser and Cerafin Castillo (“Plaintiffs”) seek to seal portions of Plaintiffs’ Motion for Class Certification and Plaintiffs’ Reply in support of the Motion for Class Certification. ECF Nos. 161, 184. Plaintiffs also seek to seal portions or the entirety of exhibits attached in support of both the Motion for Class Certification and the Reply. *Id.* Defendants HCL Technologies Ltd. and HCL America, Inc. (“Defendants”) seek to seal portions of Defendants’ Opposition to Plaintiffs’ Motion for Class Certification, and portions or the entirety of exhibits attached in support of the Opposition. ECF No. 184.

Having considered the parties’ motions, the relevant law, and the record in this case, the

1 Court hereby DENIES without prejudice the parties' administrative motions to file under seal.

2 **I. LEGAL STANDARD**

3 "Historically, courts have recognized a 'general right to inspect and copy public records
4 and documents, including judicial records and documents.'" *Kamakana v. City & Cnty. of*
5 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435
6 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, "a strong
7 presumption in favor of access is the starting point." *Id.* (internal quotation marks omitted).

8 Parties seeking to seal judicial records relating to motions that are "more than tangentially
9 related to the underlying cause of action," *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092,
10 1099 (9th Cir. 2016), bear the burden of overcoming the presumption with "compelling reasons
11 supported by specific factual findings that outweigh the general history of access and the public
12 policies favoring disclosure." *Kamakana*, 447 F.3d at 1178–79 (internal quotation marks and
13 citation omitted). Compelling reasons justifying the sealing of court records generally exist "when
14 such 'court files might have become a vehicle for improper purposes,' such as the use of records to
15 gratify private spite, promote public scandal, circulate libelous statements, or release trade
16 secrets." *Id.* at 1179 (quoting *Nixon*, 435 U.S. at 598). However, "[t]he mere fact that the
17 production of records may lead to a litigant's embarrassment, incrimination, or exposure to further
18 litigation will not, without more, compel the court to seal its records." *Id.*

19 Here, the documents that the parties seek to seal are related to a motion for class
20 certification. "A class certification motion 'generally involves considerations that are enmeshed in
21 the factual and legal issues comprising plaintiff's cause of action,' which require a district court to
22 engage in a 'rigorous analysis' that 'entail[s] some overlap with the merits of the plaintiff's
23 underlying claims.'" *McCurley v. Royal Seas Cruises, Inc.*, 2018 WL 3629945, at *2 (S.D. Cal.
24 July 31, 2018) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 351, 352 (2011)). Indeed,
25 most district courts to consider the question have found that motions for class certification are
26 "more than tangentially related to the underlying cause of action" and therefore apply the
27 "compelling reasons" standard. *Philips v. Ford Motor Co.*, 2016 WL 7374214, at *2 (N.D. Cal.

Dec. 20, 2016) (collecting cases). Accordingly, the compelling reasons standard applies to the parties' sealing motions. *See, e.g., Hadley v. Kellogg Sales Co.*, No. 16-CV-04955-LHK, 2018 WL 7814785, at *2 (N.D. Cal. Sept. 5, 2018) (applying compelling reasons standard).

In addition, parties moving to seal documents must comply with the procedures established by Civil Local Rule 79-5. Pursuant to that rule, a sealing order is appropriate only upon a request that establishes the document is "sealable," or "privileged, protectable as a trade secret or otherwise entitled to protection under the law." Civ. L. R. 79-5(b). "The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil [Local Rule] 79-5(d)." *Id.* Civil Local Rule 79-5(d), moreover, requires the submitting party to attach a "proposed order that is narrowly tailored to seal only the sealable material" and that "lists in table format each document or portion thereof that is sought to be sealed," as well as an "unredacted version of the document" that "indicate[s], by highlighting or other clear method, the portions of the document that have been omitted from the redacted version." Civ. L. R. 79-5(d)(1).

II. DISCUSSION

The parties seek to seal 69 exhibits and declarations in addition to portions of the Motion for Class Certification, Opposition, and Reply. *See* ECF Nos. 161, 177, 184. The parties seek to file these documents under seal for a number of reasons, including that these documents contain (1) HCL's confidential business information; (2) HCL's confidential staffing processes and strategies; (3) HCL's confidential employment data; and (4) personal information of individuals who are not parties to this lawsuit. *See, e.g.,* ECF No. 164-1, at 2–4; ECF No. 185-1, at 2–4. Plaintiffs allege that the documents that Plaintiffs seek to file under seal have been designated as "confidential" or "highly confidential" by Defendants in discovery. *See* ECF No. 164-1, at 1; ECF No. 184, at 2. A motion for class certification is more than tangentially related to the underlying cause of action. *Ford Motor Co.*, 2016 WL 7374214, at *2. Thus, the compelling reasons standard applies to the parties' sealing motions. *Hadley*, 2018 WL 7814785, at *2.

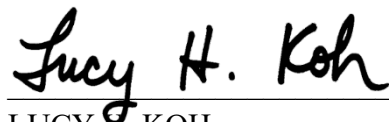
Having reviewed the parties' sealing requests and the documents to be sealed, the Court finds that the parties' sealing requests are overbroad or lack sufficient justification. First, the

1 parties seek to seal 57 exhibits in their entirety. The Court notes that “[i]f a sealing request is
2 properly narrowly tailored, it will be relatively rare that an entire document will be sealable.”
3 *Hadley*, 2018 WL 7814785, at *3. Second, although the parties have sought more narrowly
4 tailored redactions in the remaining exhibits and declarations, many of the redactions sought are
5 names of HCL employees or HCL clients. *See*, e.g., ECF No. 177-7, at ¶ 2; ECF No. 177-10, at ¶¶
6 4–6; ECF No. 177-12, at ¶¶ 4–6; ECF No. 177-16, at ¶ 3; ECF NO. 177-24, at ¶¶ 2–4. The parties
7 have provided no justification for why the names of these HCL employees and clients should be
8 sealed. The parties’ declarations must establish the compelling reasons to seal these names.

9 Accordingly, the Court DENIES the parties’ motions to seal without prejudice. By March
10 24, 2021, the parties shall meet and confer in order to decide what information the parties will
11 request to file under seal. By March 31, 2021, the parties shall file a joint administrative motion to
12 file under seal with all necessary declarations establishing the compelling reasons to seal such
13 information. The parties shall also comply with all other requirements set forth in Civil Local
14 Rule 79-5(d).

15 **IT IS SO ORDERED.**

16
17 Dated: March 10, 2021

18 

19 LUCY H. KOH
20 United States District Judge
21
22
23
24
25
26
27
28